

Applicant : Walter Callen et al.  
Serial No. : 10/034,621  
Filed : December 21, 2001  
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Attorney's Docket No.: 09010-027007 / DIVER 1350-6

## REMARKS

### Status of the Claims

#### Pending claims

Claims 1 to 27 as filed are pending.

#### Claims added and amended in the instant amendment

Claims 1 to 17 are amended, claims 18 to 27 canceled, without prejudice, and claim 28 to 38 are added. Thus, after entry of the instant amendment, claims 1 to 17 and 28 to 38 will be pending and under consideration.

### Support for the Claim Amendments

The specification sets forth an extensive description of the invention in the new and amended claims. Support for claims directed to polypeptides having a polymerase activity that has or lacks a 3'-5' exonuclease activity can be found, inter alia, on page 23, lines 19 to 26. Support for claims directed to polypeptides having a polymerase activity at a temperature up to 150°C can be found, inter alia, on page 23, lines 12 to 15. Support for claims directed to polypeptides having a polymerase activity in high salinity conditions can be found, inter alia, on page 23, lines 8 to 12. Support for claims directed to methods for amplifying a nucleic acid (e.g., by PCR) comprising using a polymerase of the invention, can be found, inter alia, on page 7, lines 4 to 17, and page 11, lines 12 to 24. Support for claims directed to nucleic acids of the invention further comprising various types of expression vectors can be found, inter alia, on page 27, lines 14 to 28.

### The Restriction Requirement

The Patent Office has alleged that the pending claims of the application are directed to three separate and distinct inventions under 35 U.S.C. §121:

Group I, claims 1 to 17, drawn to an isolated nucleic acid encoding a polymerase;

Group II, claims 18 to 26, drawn to an isolated DNA polymerase;

Group III, claim 27, drawn to an assay for identifying functional polypeptides.

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The Election

In response to the Restriction Requirement, Applicants elect Group I, claims 1 to 17, drawn to an isolated nucleic acid encoding a polymerase.

CONCLUSION

In view of the foregoing amendment and remarks, Applicants believe all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If any additional necessary fees are required, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 06-1050. Please credit any overpayment to the above-noted Deposit Account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858 678 5070.

Date:

*May 27, 2003*

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Respectfully submitted,

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